

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF WESTERN DISTRICT OF NEW YORK

ERIC J. WILLIAMS,)	
)	
Plaintiff,)	
)	
v.)	Case No. 6:21-cv-6596
)	
ROCHESTER INSTITUTE OF)	
TECHNOLOGY,)	
)	
Defendant.)	

ORDER DISMISSING CASE FOR FAILURE TO PROSECUTE

A review of the docket in this case reveals the following:

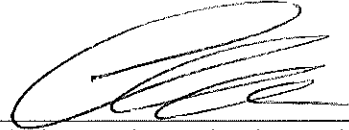
1. On January 12, 2023, counsel for Plaintiff Eric J. Williams filed a motion to withdraw and requested ninety days to find replacement counsel.
2. On January 13, 2023, the court granted the motion in part and ordered Plaintiff to find substitute counsel within forty-five days or to advise the court that he intends to represent himself.
3. On January 20, 2023, Plaintiff's counsel filed a certificate of service of the court's January 13, 2023 Order on Plaintiff.
4. On March 31, 2023, the court issued an Order to Show Cause ordering Plaintiff to show cause within twenty (20) days of the date of that Order why this case should not be dismissed for lack of prosecution.
5. No further filings have been received as of the date of this Order.

Fed. R. Civ. P. 41(b) authorizes dismissal of an action when "the plaintiff fails to prosecute or comply with these rules or a court order[.]" Where a defendant has not moved under Rule 41(b), a court may nevertheless dismiss a case *sua sponte*. *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962). Although Rule 41(b) does not define "[f]ailure to prosecute[.]" the Second Circuit has held that "[i]t can evidence itself either in an action lying dormant with no significant activity to move it or in a pattern of dilatory tactics." *Lyell Theatre Corp. v. Loews Corp.*, 682 F.2d 37, 42 (2d Cir. 1982).

Accordingly, pursuant to Federal Rule of Civil Procedure Rule 41(b), Plaintiff's case is hereby DISMISSED.

SO ORDERED.

Dated this 28th day of April, 2023.

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by several horizontal strokes.

Christina Reiss, District Judge
United States District Court